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OFFICE OF PETITIONS

In re Application of
Daniel Wang, Robert Daly, and Steve Jaques
Application No. 10/687,335
Filed: October 16, 2003
Attorney Docket No. WAT0133
Title: BROAD BAND ANTENNA

DECISION ON PETITION
UNDER 37 C.F.R. §1.47(a)

This is in response to the petition under 37 C.F.R. §1.47(a)¹, filed October 16, 2003.

On October 16, 2003, the application was deposited, identifying Daniel Wang, Robert Daly, and Steve Jaques as joint inventors. The application was deposited without a fully executed oath or declaration². The instant petition was submitted along with the filing of the application.

With the instant application, petitioner submitted a statement of facts executed by joint inventor Jaques, a copy of a letter which was mailed to the same, and a copy of a letter which was sent to the non-signing inventor.

The petition fee has been charged to Petitioner's Deposit Account, as authorized in the petition.

Petitioner has met requirements (1) – (3) and (5) above. As the instant petition was included on

1A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
 - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
 - b) proof that the non-signing inventor cannot be found or reached after diligent effort;
- (5) a declaration which complies with 37 CFR §1.63.

² Joint inventor Wang did not execute the declaration.

filing, requirement (2) above is not applicable.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor cannot be found, Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* The declarant sets forth that he sent two letters to the non-signing inventor's last known address, and that another entity attempted to telephone the non-signing inventor. However, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. No mention is made as to any search done for the non-signing inventor. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions³.

For this reason, the petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision, and must contain evidence that a diligent search was conducted for the non-signing joint inventor. Extensions of time under 37 CFR §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR §1.47(a)."

The reply to this letter may be submitted by mail⁴, hand-delivery⁵, or facsimile⁶.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries should be directed to the undersigned at (703) 305-0011.



Paul Shanowski
Attorney
Office of Petitions
United States Patent and Trademark Office

³ See MPEP 409.03(d).

⁴ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁵ Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

⁶ (703) 872-9306, attention Office of Petitions, Attorney Paul Shanowski.